

# **Locus standi of non-privileged applicants to bring an action for annulment**

## **Abstract**

Every developed legal system is bound to have a mechanism for checking the procedural and substantive legality of measures adopted by its institutions. In the European Union it was of significant importance to create a system of control over the acts of the EU institutions given the democratic deficit within the Union and the limited supervisory role of the European Parliament. Binding acts of the EU institutions are subject to review through a number of routes provided by the Treaty on the Functioning of the European Union (TFEU) and the Treaty on the European Union (TEU), namely action for annulment (Art. 263 TFEU), the plea of illegality (Art. 277 TFEU), the preliminary reference (Art. 267 TFEU) and the action for damages (Arts. 268 and 340 TFEU). The Court has consistently endeavoured to treat the several strands as a complex and coherent system of judicial review within the Union based on the rule of law. The action for annulment under Art. 263 TFEU plays a crucial role for individuals as it is in practice the only direct way open to individuals to challenge the acts of EU institutions.

The main purpose of my thesis is to examine whether the current wording of Art. 263(4) TFEU provides for individuals a sufficiently broad way to directly challenge EU acts. The paper focuses on the requirements which have to be satisfied by individuals in order to establish locus standi and argues that they may be too strict and (even after Lisbon) unclear. The thesis examines these conditions in detail while devoting a significant part to recent case-law developments concerning Art. 263(4) TFEU [ex 230(4) TEC].

The thesis is composed of six chapters. The first one provides a brief introduction to the problem and a general overview of the action for annulment. Chapter Two defines the term “locus standi” and distinguishes between privileged, semi-privileged and non-privileged applicants. Chapter Three deals with the concept of natural and legal person with regard to the action for annulment. Chapter Four

concentrates in detail on conditions of locus standi (or standing) of non-privileged applicants, especially the controversial requirements of direct and individual concern and the unclear term “regulatory acts.” Especially in this chapter, the emphasis is put on the key case-law dealing with the locus standi conditions, as well as cases in which the Court of Justice took more liberal approach. Chapter Five addresses the issue of an interest in the annulment of the contested act. Chapter Six concludes the paper by an analysis of reasons which lead the Court of Justice of the EU to the restrictive interpretation of the locus standi requirements, above all the fear of opening floodgates, together with a desire not to unduly hamper the institutions in their task of implementing EU policies.

The paper maintains that such a restrictive interpretation does not provide for a sufficient judicial review of binding acts of EU institutions. Consequently, I suggest that the Court of Justice should change its approach and soften its restrictive interpretation, which will be the easiest and the less expensive way how to effectively protect individuals against unlawful EU acts.